

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

SHANELL DELESTON

Plaintiff,

v.

UNITED STATES OF AMERICA

Defendant.

Civil Action No.:2:22-cv-492-BHH

**COMPLAINT
(FTC-Negligence; Negligence Per Se)**

(NON-JURY TRIAL DEMANDED)

Now come the Plaintiffs, Shanell Deleston (hereinafter “Deleston”), by her undersigned attorney alleges her complaint against Defendants, United States of America, (hereinafter “USA”) and will respectfully show unto this Honorable Court as follows:

FIRST: Deleston is a citizen and a resident of Berkeley County, state of South Carolina; the same being within the district of South Carolina.

SECOND: Upon information and belief USA, through the United States Airforce which is a Department of the U.S. Government, is subject to suit pursuant to the Federal Tort Claims Act.

THIRD: This action arises under 28 U.S.C. §2671 *et seq.* *{{Federal Tort Claim Act}}*

This Honorable Court has jurisdiction of the parties and subject matter set forth therein based on the Federal Tort Claims Act 28 USC § sec 1346.

FOURTH: On October 19, 2018, Deleston was operating her 2009 Toyota automobile bearing 2009 license tag LBL 566, heading west bound on North Rhett Avenue, near

the town of Goose Creek, South Carolina and was stopped in traffic.

FIFTH: At the same time and date, USA, its agent, servant, employee and or other representative, ANTARINN JAMAL BROWN, while acting within the coarse and scope with defendant, failed to adequately slow and/or stop his vehicle for stopped traffic and collided into the back end of another vehicle stopped in traffic, directly behind Deleston's motor vehicle; striking that motor vehicle so hard as to push it off of the roadway onto the median. That, after crashing into the back of the other stopped motor vehicle; directly behind Deleston's vehicle; the defendant agent then crashed into the back of Deleston's motor vehicle which was lawfully stopped in traffic.

SIXTH: As a direct and proximate result of the defendant' agent's actions or inactions,

- a) Deleston suffered various serious personal bodily injuries which have in the past and may in the future cause her to undergo physical and mental pain and suffering;
- b) Have in the past and may in the future cause her to spend money for medical services;
- c) Has in the past and may in the future will cause Deleston to suffer lost wages;
- d) Has in the past and may in the future cause trauma, mental anguish, loss of enjoyment of life, anxiety, annoyance, emotional injuries, inconvenience, permanent impairment and travel expenses related to medical care; all to Deleston's general damage and detriment.

SEVENTH: USA by and through its agent, servant and representative, and/or employee was willful, wanton, negligent, reckless, careless and grossly negligent at the

time and place aforementioned in one or more of the following particulars:

- a) In failing to use proper care and due diligence in the operation of a vehicle, a dangerous instrumentality;
- b) In operating or allowing to be operated a motor vehicle, a dangerous instrumentality in an unsafe manner;
- c) In failing to maintain a proper look out;
- d) In failing to keep its vehicle under proper controls;
- e) In failing to timely apply brakes to its motor vehicle;
- f) In driving too fast for conditions in violation of SC Code Annotated § 56-5-1520; thereby constituting negligence, per se;
- g) In failing to yield right of way to plaintiff's motor vehicle in violation of SC code Annotated § 56-5-1580; thereby constituting negligence, per se;
- h) In generally failing to obey the traffic laws of the state of S.C. in violation of S.C. Code Annotated § 56-5-730, thereby constituting negligence per se;
- i) In following too closely in violation of S.C. Code Annotated § 56-5-1930, thereby constituting negligence per se;
- j) In colliding into the back end of Deleston' motor vehicle which was lawfully using the roadway;
- k) In generally failing to use a degree of care and caution in operating a motor vehicle that a prudent person would normally use under the same or similar circumstances
- l) Then and there prevailing, all of which were the direct and proximate cause of

the injuries and damages suffered by the plaintiffs herein, said acts being in violation of statutory and common laws of the state of S.C.

EIGHTH: Under the statutes, the person responsible for the operation of USA's vehicle, if they were a private person, would be liable to Deleston for her damages resulting from the collision.

NINTH: The motor vehicle driven by the USA's agent and/or employee was owned by the U.S. Airforce, a department of the U.S. Government. The collision occurred when USA's vehicle's driver was acting in the scope of his employment, agency or relationship with and on behalf of the U.S. Airforce.

TENTH: On October 26, 2020 Deleston presented her claims in writing to the U.S. Airforce for damages covering the collision herein, complaint in the amount of Eight Thousand, Eight hundred and Fifty-Three dollars and .26 cents (\$8,853.26).

ELEVENTH: USA responded on January 6, 2021, by a staff attorney for the General Torts Branch and Litigation Division of the department of the Airforce; who made an offer to settle this case which was rejected by Deleston; thereby effectively denying Deleston's claim.

TWELTH: That as a direct and proximate result of USA's actions and/or inactions; Deleston is informed and believe that she is entitled to a judgement against the USA in an appropriate amount of actual damages, post-judgement interest, if applicable; cost of this action and such other relief as this Court may deem just and proper.

WHEREFORE, Deleston prays for judgement against the USA in an appropriate amount of actual damages, post-judgement interest, if applicable, cost of this action,

and such other and further relief as this Court may deem just and proper.

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By: /s/ Malcolm M. Crosland, Jr.
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Attorney for Plaintiffs

Charleston, South Carolina
February 11, 2022